

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

STRAUS & BOIES, L.L.P.,

Plaintiff

vs.

E. RANDOL SCHOENBERG and
E. RANDOL SCHOENBERG LAW OFFICES,

Defendants

Civil Action No.

01-C-1468-S

01 JUN 28 AM 10:06
U.S. DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION
ENTERED

JUN 28 2001

Sub.

MEMORANDUM OPINION

This case was initially filed in the Circuit Court of Jefferson County, Alabama.

Plaintiff Straus and Boies is a limited liability law partnership with offices in Birmingham. It alleges that at the invitation of Defendants, a lawyer and his law firm in Los Angeles, California, it participated in the drafting of *Maria V. Altman v. The Republic of Austria* (C.D.Cal. W.Div. 00-CV-8913), a lawsuit against the Republic of Austria. Attorneys' fees in *Altman* are contingent on a recovery by the plaintiff in that action. *Altman* has now been filed in the Central District of California, where it is presently pending. The Defendants have since informed Plaintiff that it will receive nothing from *Altman*, regardless of outcome.

The complaint in this case seeks declaratory judgment, an order reimbursing Plaintiff for its out-of-pocket costs, and "appropriate compensation for their time and expertise and the value they added to the lawsuit in accordance to the law as declared by the Court...."

Defendants removed the case on diversity grounds. Plaintiff has moved to remand the case to the state court, alleging that the requisite jurisdictional amount (\$75,000) is lacking. In


responding to the remand motion, the Defendants have filed a copy of an e-mail sent to them by Plaintiff on February 8, 2001, which reflects that Plaintiff's attorney's fee demand is \$75,438.75 (representing 216 hours) and that its out-of-pocket expenses total \$1,696.42.

The Court finds that the amount in controversy exceeds \$75,000.

Defendants have moved to dismiss or stay this case on the grounds that the case is not ripe for adjudication. The Court agrees. Unless the plaintiff prevails in the federal court action in Los Angeles, there is no "case or controversy" sufficient to invoke federal jurisdiction, for there is nothing to argue about.

By separate orders, the motion to remand will be denied, and the motion to dismiss without prejudice will be granted.

Done this 27th day of June, 2001.



Chief United States District Judge
U.W. Clemon